IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL, CIVIL JURISDICTION

WRIT PETITION NO.2263 of 2004

S.B.Jagtap ...Petitioner

Vs.

1.The State of Maharashtra & Ors..Respondents

None for the petitioner

CORAM: **F.I. REBELLO &**
MRS.V.K.TAHILRAMANI, JJ.
DATE: 15TH JUNE,2006

P.C.

. Rule. Heard forthwith.

2. The petitioner has approached this Court to impugn the order whereby cost of Rs.10,000/- is awarded against the petitioner, who is a driver. The petitioner had earlier filed O.A. 385 of 1998. That O.A. came to be allowed and the respondents were directed to convene a review DPC. After the Review DPC as the petitioner's was not selected he has filed O.A. No.116 of 2002 which came to be disposed of on 22nd April, 2002. The Tribunal proceeded on the footing that the petitioner should have disclosed about filing of O.A. No.384 of 1998 and as he has not disclosed the same it amounts to suppression of facts and imposed a sum of Rs.10,000/- by way of costs. The petitioner aggrieved approached this Court by way of Writ Petition No.1841 of 2002 which came to be disposed of by order dated 26th July, 2002 by remanding the matter back to the Tribunal. The Tribunal on remand has rejected the plea of the

petitioner on costs.

3. We fail to understand as to how it can be said that the petitioner has suppressed any material fact from the Tribunal. The petitioner had approached the Tribunal and his O.A. was allowed. A review DPC was directed to be constituted. Merely because the petitioner did not mention this fact in the second O.A. would not amount to suppression of fact more so as he had succeeded in the first O.A. We are, therefore, inclined to interfere with the imposition of costs of Rs.10,000/-.

. In the circumstances we allow the petition and quash and set aside the imposition of costs of Rs.10,000/-. If any cost has been recovered from the petitioner the same be refunded to him within eight weeks.

4. Rule made absolute. No order as to costs.

(**F.I. REBELLO, J)**

(**MRS.V.K.TAHILRAMANI, J).**